



MEDIACLOUD PTY LTD (ADMINISTRATORS APPOINTED) ABN 13 641 575 304 (Company)

PROPOSAL FOR A DEED OF COMPANY ARRANGEMENT (DOCA)

Term Sheet

1. PROPOSAL

- 1.1 The Proponent puts forward this proposal for a Deed of Company Arrangement (**Proposed DOCA**) for consideration by the creditors of the Company at a meeting to be convened in accordance with section 439A of the Corporations Act (**Second Creditors' Meeting**).
- 1.2 Telstra Corporation Limited ABN 33 051 775 556 (the **Proponent**) is proposing to acquire all of the shares in the Company and continue the Company's business as a going concern.
- 1.3 Further, alongside the acquisition of the shares of the Company, the Proponent is proposing to acquire various assets (including intellectual property rights, employment contracts, customer contracts and supplier contracts) relevant to the business of the Company from a UK entity called Deluxe Broadcast Services Ltd (**UK Asset Transfer Agreement**). The Proposed DOCA and the UK Asset Transfer Agreement are inter-conditional.
- 1.4 The Proposed DOCA provides for a trust fund being made available to the participating creditors of the Company through a Creditors' Trust.
- 1.5 The Creditors' Trust will enable certain tasks ordinarily undertaken by deed administrators (including but not limited to calling for, adjudicating on Claims and paying any dividends) to be performed by the Trustees of the Creditors' Trust. This will facilitate the early execution of the Proposed DOCA and the acceleration of the Company out of an insolvency process. Practically, this will allow for the Proponent to take ownership of the Company and control of the Company's business sooner than it would under a DOCA alone, as the Proposed DOCA can complete before all Claims are adjudicated and a distribution made.
- 1.6 The Administrators will be the Deed Administrators of the Proposed DOCA and the joint and several Trustees of the Creditors' Trust.

2. PURPOSE OF DOCA

- 2.1 The purpose of the proposed DOCA is to:
- 2.1.1 provide certainty to creditors and provide a better and more timely return to creditors than a winding up of the Company;
- 2.1.2 facilitate an orderly and cost effective transition of the Company to the sole control of the Proponent, in a way that minimises disruption and enables Continuing Employees to maintain their employment;
- 2.1.3 with the exception of the Excluded Claims and Continuing Employees (who will maintain their employment and all entitlements with the Company), to: (1) pay in full all Claims against the Company which are admitted to proof by the Trustees from a contribution to be made by the Proponent, and (2) pay all of the fees and costs of the administration, deed administration and Creditors' Trust from the Company Fund Amount, with the Proponent's contribution and the Company Fund Amount together comprising the Creditors' Trust fund;

- 2.1.4 with the exception of the Continuing Employees, discharge in full all Claims against the Company;
- 2.1.5 conclude the administration of the Company and the DOCA as soon as practicable; and
- 2.1.6 minimise the holding costs and ongoing expenses in relation to the Company including further administrators' fees and other costs associated with an external administration.

3. CONDITIONS PRECEDENT

- 3.1 Completion of the Proposed DOCA will be conditional upon the following conditions precedent being satisfied or waived on or prior to the Sunset Date:
 - 3.1.1 All conditions to completion under the UK Asset Transfer Agreement being satisfied or waived by the Proponent, such that completion under the agreement can occur (including the purchase price for this transaction having been received into escrow);
 - 3.1.2 All funds comprising the Proponent's contribution to the Creditors' Trust being received;
 - 3.1.3 The Creditors' Trust Deed being duly executed; and
 - 3.1.4 Various other transaction documents necessary to effect the transaction being executed.

4. GOVERNING LAW

- 4.1 The Proposed DOCA will be governed by the laws in force in the state of New South Wales, Australia.

5. BOILERPLATE PROVISIONS

- 5.1 The Proposed DOCA will include all the customary terms and conditions generally found in a deed of company arrangement of this type, and otherwise required under the *Corporations Act 2001*.

6. DOCA TO SUPERSEDE

- 6.1 The terms of the DOCA will supersede the terms of this document.

7. DEFINED TERMS

Defined terms in the Deed will include, but not be limited to:

- 7.1 **Act** means the *Corporations Act 2001* (Cth).
- 7.2 **Appointment Date** means 9 November 2020.

7.3 **Claim** includes without limitation any debt payable and any claim against, the Company (whether present or future, certain or contingent, ascertained or sounding only in damages, expenses, environmental liability, tax, duty, liability, loss, obligation, suit, action, demand, cause of action, prayer for relief, proceeding, judgment, whether direct or indirect, consequential, incidental or economic, known or unknown as at the Appointment Date, being debts or claims arising, wherever and whenever arising and whether:

- (a) under statute, equity or common-law;
- (b) under contract (including this agreement), in tort (including negligence) or under an indemnity;
- (c) regarding any past, present or future conduct;
- (d) actual or contingent;
- (e) known or unknown at execution of the Deed;
- (f) a debt or claim arising pursuant to any guarantee or indemnity (including contingent claims);
- (g) subject to section 444D(3) of the Act, as a debt or claim of an owner or lessor of property;
- (h) subject to section 444D(2) of the Act, a debt or claim of a secured creditor;
- (i) all debts or claims provable in a winding up of the Company pursuant to section 553 of the Act;
- (j) all claims of a lessor to a continuing lease as at the Appointment Date; or
- (k) all claims of a counterparty to a continuing contract as at the Appointment Date.

7.4 **Company Fund Amount** means:

- (a) the total of the funds to the credit of any bank accounts in the name of the Company on the Completion Date; and
- (b) any amounts in relation to GST, insurance or other refunds that relate to liabilities or claims incurred by the Company during the period of the administration and deed of company arrangement.

7.5 **Completion Date** means the first business day after the date on which all of the conditions precedent in the Deed have been satisfied or waived or such other date agreed by the Proponent and the Deed Administrators in writing.

7.6 **Continuing Employees** means each Employee who is employed by the Company as at the Completion Date.

7.7 **Deluxe Group** means:

- (a) Deluxe Entertainment Services Inc.;
- (b) Deluxe Entertainment Services Group Inc.;
- (c) Deluxe Media Inc.;
- (d) TS HoldCo Limited;

- (e) Deluxe Broadcast Services Limited;
- (f) Deluxe 142 Limited;
- (g) Deluxe Digital Cinema Inc;
- (h) Vericom AB; and
- (i) Any other entity that is or was formerly part of the Deluxe Entertainment Group other than A.P. Facilities Pty Ltd and potentially other entities to be confirmed.

7.8 **Directors** mean the directors of the Company from time to time.

7.9 **Excluded Claim** means:

- (a) any Claim which a member of the Deluxe Group has against the Company; and
- (b) any Claim which a current or former Director or current or former Officer of the Company, or any of their related bodies corporate, relatives or associated entities, has against the Company.

7.10 **Non-Continuing Employee** means an employee who was formerly, but is no longer employed by the Company as at the Completion Date.

7.11 **Officer** has the meaning as defined in section 9 of the Act.

7.12 **Sunset Date** means 30 days from the Second Creditors' Meeting, or such later date as is agreed in writing between the Proponent and the Deed Administrators.